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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,382	11/15/2000	Mark Sheridan Westlake	RCA88859	3486

24498 7590 07/13/2005

THOMSON LICENSING INC.
PATENT OPERATIONS
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EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,382

Applicant(s)

WESTLAKE

Examiner

Reuben M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3-5,9,11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 9 & 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves, (U.S. Pat # 5,410,344), in view of Bruette, (U.S. Pat # 5,694,176).

Considering claim 1, the amended claimed method of 'controlling a signal processing system comprising receiving a plurality of programs and associated program information from a remote source, such that the program information includes a plurality of program characteristic information' reads on the discussion of Graves that a headend 14 transmits a plurality of programs along with content codes to home users; col. 3, lines 12-26; col. 4, lines 52-67; col. 2, lines 12-30 & Fig. 2.

Regarding the claimed feature of 'selecting numerous programs from the plurality of programs in response to a user input', Graves teaches that the controller 20a selects a particular

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channel and conveys the program the selected channel to the TV 22a, col. 3, lines 34-50.

However, it is not explicitly stated that the channel/program selected by the controller 20a may be a particular channel chosen by the subscriber. Official Notice is taken that at the time the invention was made, a tuner/STB receiving a channel choice/selection made by a subscriber, and then selecting/tuning to the instant choice made by the subscriber was old in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Graves in manner that the controller 22a receives a channel input from the subscriber and tunes to the selected channel, at least for the desirable benefit of the enabling the subscriber to choose specific programs/channels of interest, instead of all of the program selections being made from an outside entity.

The feature of 'receiving rating information for numerous programs from the user, such that the rating information is respectively related to an impression of the user to the numerous programs', is met by Graves col. 6, lines 52-67 thru col. 7, lines 1-20. Graves teaches that in a first input mode, the system gathers the viewer preference data (including rating) for a particular program that has been viewed.

As for the further amended claimed feature of 'receiving a suggestion signal from the user and directly comparing a particular characteristic of the program information of a highest rated one of the numerous programs for which rating information is received... and suggesting all programs from the plurality of programs in which the characteristic of the program information substantially matches the characteristic of the program information of the highest

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rated one of the numerous programs', Graves teaches that after a ranking of programs is generated, based upon a viewer's input, that the ranked programs (thus including the highest ranked programs) are filtered based upon the viewer's preference file, see Fig. 5; Fig. 6; col. 6, lines 60-67 thru col. 7, lines 1-20; col. 8, lines 5-51; col. 7, lines 36-64; col. 9, lines 35-50.

However, the viewer's preference file in Graves is made up of a plurality of characteristics, which is broader than the claimed, 'a particular characteristic'. Nevertheless Bruette, which is also directed to a viewer's customization of lists of programs, teaches that it is advantageous for a viewer to customize a list of programs, based upon a particular category or theme, (see col. 4, lines 24-67, thru col. 5, lines 1-54) as recited in the instant claim.

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Graves with the feature of enabling a viewer to customize a list of programs using a particular theme or category as taught by Bruette (Abstract; col. 1, lines 15-26; col. 2, lines 1-30), for the desirable benefit of the allowing the viewer customize and navigate through a plurality of programs to find the ones that are of most specific interest to the instant viewer.

Considering claims 3 & 11, in Graves the user adjusts a horizontal bar graph, (i.e., a numeric level) in order to rate programs, which represents the rating information comprising a numeric character, (col. 6, lines 65-67 thru col. 7, lines 1-20 & Fig. 5).

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Considering claims 4 & 12, the rating information comprising at least an alpha character reads on the series of questions presented to viewer, which when answered by the viewer represents a viewer rating, Fig. 5; Fig. 6; col. 6, lines 60-67 thru col. 7, lines 1-20.

Considering claim 5, the feature of 'storing rating information in memory' reads on col. 7, lines 37-45, which discloses that the user preference file 32a is updated, wherein the preference file 32a is already stored in the controller 20a, Fig. 2; col. 4, lines 40-51; col. 5, lines 44-67 & col. 7, lines 38-51.

Considering claim 9, the claimed apparatus for suggesting a program for viewing comprising elements that correspond with subject matter mentioned above in the rejection of claim 1, are likewise treated, such as:

'means for receiving a plurality of programs from a remote source...' is met by the controller 20a, which includes a set top box 26a for receiving TV programs and content header data, (col. 3, lines 18-45 & col. 4, lines 18-66.

Regarding the amended claimed feature of 'means for selecting a first program from the plurality of programs in response to a user input', Graves teaches that the controller 20a selects a particular channel and conveys the program the selected channel to the TV 22a, col. 3, lines 34-50. However, it is not explicitly stated that the channel selected by the controller 20a may be a particular channel chosen by the subscriber. Official Notice is taken that at the time the invention

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was made, a tuner/STB receiving a channel choice/selection made by a subscriber, and then selecting/tuning to the instant choice made by the subscriber was old in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Graves in manner that the controller 22a receives a channel input from the subscriber and tunes to the selected channel, at least for the desirable benefit of the enabling the subscriber to choose specific programs/channels of interest, instead of all of the program selections being made from an outside entity.

‘means for receiving rating information for numerous programs from the user, such that the rating information is respectively related to an impression of the user to the numerous programs’, is met by Graves col. 6, lines 52-67 thru col. 7, lines 1-20. Graves teaches that in a first input mode, the system gathers the viewer preference data (including rating) for a particular program that has been viewed.

As for the amended claimed ‘means for directly comparing a particular characteristic of the program information of a highest rated one of the numerous programs for which rating information is received... and suggesting all programs from the plurality of programs in which the characteristic of the program information substantially matches the characteristic of the program information of the highest rated one of the numerous programs’, Graves teaches that after a ranking of programs is generated, based upon a viewer’s input, that ranked programs (thus including the highest ranked programs) are filtered based upon the viewer’s preference file, see Fig. 5; Fig. 6; col. 6, lines 60-67 thru col. 7, lines 1-20; col. 8, lines 5-51; col. 7, lines 36-64; col.

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9, lines 35-50. However, the viewer's preference file in Graves is made up of a plurality of characteristics, which is broader than the claimed, 'a particular characteristic'. Nevertheless Bruette, which is also directed to a viewer's customization of lists of programs, teaches that it is advantageous for a viewer to customize a list of programs, based upon a particular category or theme, (see col. 4, lines 24-67, thru col. 5, lines 1-54) as recited in the instant claim.

In particular, the navigation menus shown in Bruette meet the claimed 'means for', see Fig. 3a & 3b. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Graves with the feature of enabling a viewer to customize a list of programs using a particular theme or category as taught by Bruette (Abstract; col. 1, lines 15-26; col. 2, lines 1-30), for the desirable benefit of the allowing the viewer customize and navigate through a plurality of programs to find the ones that are of most specific interest to the instant viewer.

Response to Arguments

3. Applicant's arguments, see page 6, filed 12/21/2004, with respect to the rejection(s) of claim(s) 1, 3-5, 9 & 11-12 under 35 U.S.C. 103, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bruette.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Hendricks Teaches a system that enables a user to navigate through menus of an EPG, by presenting a list of programs, based upon their category or theme, see Figs. 8, 11a-11e & 13a-13b.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP-§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


HAI TRAN
PRIMARY EXAMINER